

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY PRAGUE

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E.O. 11652: N/A

TAGS: PDIP, CZ, US

SUBJECT: PENDING LEGISLATION ON DIPLOMATIC IMMUNITY

REF: PRAGUE 829

1. DCM SHOULD CONVEY FOLLOWING STATUS REPORT ON PENDING IMMUNITY LEGISLATION TO ZANTOVSKY.
 2. FOREIGN RELATIONS COMMITTEE HEARING ON "DIPLOMATIC RELATIONS ACT" (HR 7819) AND OTHER PENDING BILLS ON IMMUNITY INITIALLY SCHEDULED FOR FEBRUARY HAS BEEN POSTPONED FOR DURATION OF DEBATE ON CANAL TREATIES BUT SHOULD COME UP THIS MONTH. WE UNDERSTAND COMMITTEE FAVORS ACTION THIS SESSION ALONG LINES OF HR 7819 BUT EXPECT THAT BILL WILL UNDERGO CHANGES IN SENATE REQUIRING COMPROMISE IN CONFERENCE PROCESS. DEPARTMENT'S VIEWS AS WELL AS THOSE OF JUSTICE DEPARTMENT HAVE BEEN SOLICITED BY COGNIZANT COMMITTEES OF 95TH CONGRESS, AND WE EXPECT CLOSE CONSULTATION TO CONTINUE
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PAGE 02 STATE 097200

THROUGHOUT LEGISLATIVE PROCESS.

3. IT SHOULD BE UNDERSTOOD THAT "MEMBERS OF THE MISSION", AS DEFINED IN VIENNA CONVENTION, AND MEMBERS OF THEIR FAMILIES WILL, IN VARYING DEGREES DEPENDING ON THEIR CATEGORY, BECOME SUBJECT TO CIVIL ACTIONS OR ADMINISTRATIVE

PROCEEDINGS AS RESULT OF REPEAL OF 1790 STATUTE, WITH ITS UNLIMITED IMMUNITY PROVISIONS, AND ADOPTION OF CONVENTION AS BASIC US LAW ON IMMUNITY. IT IS TO THIS AREA OF ACTIONS OR PROCEEDINGS, AND NOT CRIMINAL ACTIONS, THAT SECTION 5 OF DRAFT BILL APPLIES. USG WILL CONTINUE TO RESPECT ABSOLUTE IMMUNITY FROM ARREST OR CRIMINAL PROSECUTION WHICH CONVENTION EXTENDS TO DIPLOMATS AND MEMBERS OF ADMINISTRATIVE AND TECHNICAL STAFF AS WELL AS MEMBERS OF THEIR FAMILIES, AND DEPARTMENT EXPECTS NO CHANGE IN

PRESENT PROCEDURES FOR ENSURING THAT LAW ENFORCEMENT AUTHORITIES AT ALL LEVELS LIKEWISE RESPECT IT UPON VERIFICATION OF INDIVIDUAL'S STATUS.

4. NEVERTHELESS, DEPARTMENT IS SENSITIVE TO CONCERNS VOICED BY SOME GOVERNMENTS OVER REQUIREMENT CONTAINED IN SAID SECTION 5 THAT A MOTION BE FILED OR WRITTEN APPLICATION MADE IN ORDER TO SECURE DISMISSAL OF A CIVIL ACTION OR ADMINISTRATIVE PROCEEDING AGAINST AN INDIVIDUAL ON IMMUNITY GROUNDS. IN RECOGNITION OF THESE CONCERNS DEPARTMENT HAS GIVEN FURTHER EXAMINATION TO THIS ISSUE AND HAS DECIDED, WITH JUSTICE DEPARTMENT CONCURRENCE, TO PROPOSE TO SENATE FOREIGN RELATIONS COMMITTEE AMENDMENT WHICH WOULD PERMIT A "MOTION OR SUGGESTION" TO BE FILED ON BEHALF OF THE INDIVIDUAL "OR OTHERWISE AS PERMITTED BY LAW OR APPLICABLE RULE OF PROCEDURE." ADOPTION OF THIS PRO-LIMITED OFFICIAL USE

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PAGE 03 STATE 097200

POSAL SHOULD GREATLY MITIGATE IF NOT OVERCOME OBJECTION OF SOME GOVERNMENTS TO PRESENT PROVISION IN HOUSE DRAFT. CHRISTOPHER

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